

840, 841, 942, 843, 844, 856, 857, 858, 859, 860, Stat. 501, 82 Stat. 617; 16 U.S.C. 797, 803, 808, 825f, 825h, 825j, 825k), and the Natural Gas Act, particularly secs. 7 and 16 (52 Stat. 824, 825, 830, 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717f, 717o), and the National Environmental Policy Act of 1969, Pub. L. 91-190, approved January 1, 1970, particularly secs. 102 and 103 (83 Stat. 853, 854), unless otherwise noted.

§ 2.80 Detailed environmental statement.

(a) It will be the general policy of the Federal Energy Regulatory Commission to adopt and to adhere to the objectives and aims of the National Environmental Policy Act of 1969 (NEPA) in its regulations promulgated for statutes under the jurisdiction of the Commission, including the Federal Power Act, the Natural Gas Act and the Natural Gas Policy Act. The National Environmental Policy Act of 1969 requires, among other things, all Federal agencies to include a detailed environmental statement in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Therefore, in compliance with the National Environmental Policy Act of 1969, the Commission staff will make a detailed environmental statement when the regulatory action taken by the Commission under the statutes under the jurisdiction of the Commission will have a significant environmental impact. The specific regulations implementing NEPA are contained in part 380 of the Commission's regulations.

[Order 486, 52 FR 47910, Dec. 17, 1987]

STATEMENT OF GENERAL POLICY TO IMPLEMENT THE ECONOMIC STABILIZATION ACT OF 1970, AS AMENDED, AND EXECUTIVE ORDERS 11615 AND 11627

AUTHORITY: Sections 2.90 through 2.102 issued under 84 Stat. 799, as amended, 85 Stat. 38, unless otherwise noted.

§§ 2.100—2.101 [Reserved]

§ 2.102 Policy respecting production-related activities performed by an interstate pipeline.

(a) *Policy.* (1) If an interstate pipeline purchases natural gas in a first sale, then in any proceeding brought under

the Natural Gas Act to determine the lawfulness of the rates and charges of such pipeline, a production-related service provided by the pipeline with respect to the purchase of such gas, or by another on behalf of the pipeline, shall be deemed prudent, unless the terms of the gas sales contract governing the pipeline's purchase of the gas expressly provide that the seller perform the activity.

(2) Any production-related service not deemed prudent under paragraph (a)(1) of this section, and the level of costs to perform any production-related service, is not deemed imprudent. The prudence of such service, or of the level of costs, is to be determined in an appropriate pipeline rate or certificate proceeding brought under the Natural Gas Act.

(b) *Definitions.* For purposes of this section the following definitions apply:

(1) The terms *first sale* and *interstate pipeline* have the same meaning as such terms have under the NGPA.

(2) The term *production-related service* has the same meaning as that term has under § 271.1104(c)(6) of this part.

[Order 94-A, 48 FR 5177, Feb. 3, 1983]

§ 2.103 Statement of policy respecting take or pay provisions in gas purchase contracts.

(a) Recognizing that take or pay contract obligations may be shielding the prices of deregulated and other higher cost gas from market constraints, the Commission sets forth its general policy regarding prepayments for natural gas pursuant to take or pay provisions in gas contracts and amendments thereto between producers and interstate pipelines which become effective December 23, 1982. The provisions of this policy statement do not establish a binding norm but instead provide general guidance. In particular cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration.

(b) With respect to gas purchase contracts entered into on or after December 23, 1982, the Commission intends to apply a rebuttable presumption in general rate cases that prepayments to producers will not be given rate base treatment if the prepayments are made